



# United States Department of the Interior



## BUREAU OF LAND MANAGEMENT

Egan Field Office

HC33 Box 33500 (702 N. Industrial Way)

Ely, Nevada 89301-9408

[http://www.blm.gov/nv/st/en/fo/ely\\_field\\_office.html](http://www.blm.gov/nv/st/en/fo/ely_field_office.html)

*In Reply Refer To:  
3809 (NVL0100)*

## Decision Record

*Midway Gold US Inc.  
8310 S. Valley Highway,  
Suite 280  
Englewood, CO 80112*

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Decision Record  
DOI-BLM-NV-L010-2012-0044-EA

I have reviewed the Plan of Operations and the Environmental Assessment (EA), and have made a Finding of No Significant Impact (FONSI) for the 2012 Gold Rock Exploration Project Amendment. Based on that review and the record as a whole, I approve the Proposed Action alternative with the proposed mitigation measures listed below and in the attachments, and referenced in the FONSI. In accordance with 43 CFR §2931.8(b)), this Decision is in full force and effective immediately.

### Mitigation Measures:

- Off-site terrestrial habitat restoration/enhancement and other activities shall be completed to compensate for the disturbance of confirmed preliminary priority habitat (PPH) and preliminary general habitat (PGH) in accordance with the Strategic Plan for Conservation of Greater Sage-Grouse in Nevada (July 31, 2012) and BLM IM 2008-204, Off-site Mitigation. Assuming that all proposed surface disturbance occurs in potential sage-grouse habitat, current calculations of these areas equate to approximately 0 acre of surface disturbance in PPH and 125 acres of surface disturbance in PGH in the project area. Habitat obligation for off-site restoration/enhancement will be recalculated when exact disturbances are known and if disturbance is proposed within the PPH. If, through field verification by the BLM in consultation with the Nevada Department of Wildlife or the Nevada Sage-Grouse Technical Team, it is determined that some of the area is not of sufficient quality to be characterized as PPH or PGH or areas that are not currently designated on the map are of sufficient quality to be included as PPH or PGH, the required acreage of off-site mitigation may be adjusted accordingly. Midway will perform or fund all restoration and enhancement projects to BLM specifications and follow all BLM requirements as outlined in a memorandum of understanding that will be executed within 30 days of signing this decision record. PPH will be replaced at a 3:1 ratio, which equates to a total of 0 acre of habitat

restoration/enhancement. PGH will be replaced at a 2:1 ratio, which equates to a total of 250 acres. The total obligation for off-site restoration/enhancement will be 250 acres.

- No surface use will be allowed within 2 miles of an active sage-grouse lek from 1 hour before sunrise to 3 hours after sunrise during the period March 1 through May 15.
- Vehicles shall not exceed 15 mph within 0.5 mile of leks during the period March 1 through May 15.
- Sage-grouse safe fencing and netting around sumps will be required, as determined by the BLM.
- Where possible, time land clearing and surface disturbance to prevent the destruction of active migratory bird nests or young migratory birds during the avian breeding season (April 1–July 31, annually). If surface-disturbing activities are unavoidable during this period, a qualified biologist shall survey the areas proposed for immediate disturbance for the presence of active migratory bird nests. Any active migratory bird nests will be avoided.
- Where appropriate, no exploratory drilling activities will be allowed from May 1 through July 15 within 0.5 mile of raptor nest sites, unless the nest site has been determined to be inactive for at least the previous 5 years.
- Drilling activities will be restricted within mule deer crucial winter range from November 1 to March 31. No drilling operations (including RC drill rigs and core rigs) or trenching will be allowed during this time. The drilling of auger boreholes is permitted.
- Perform roadside surveys for burrowing owl burrows once each spring prior to watering roads for dust control.
- Avoid exploratory drilling activities within a minimum of 200 feet of pygmy rabbit burrows.
- Any removed vegetation from road creation will be saved and used at access entrance. All drilling sites, including turnouts, will be visually masked by spreading the cut and downed brush and trees scattered across each site (Attachment 1).
- No ripping will be necessary for overland travel. Any removed vegetation will be saved from sump sites and used at access entrance by lopping and scattering up to 50 feet, to avoid continued access on two-tracks (Attachment 1).
- Follow mitigation measures listed in the Attachment 2 to prevent the introduction or spread of noxious and invasive weeds in the area.

## **Rationale**

- 1) The Proposed Action is in conformance with the Ely District Record of Decision and Approved Resource Management Plan signed in August of 2008. Section 1.6 of the EA documents the conformance review.
- 2) The Proposed Action is consistent with all other federal, state, and local laws, regulations, and plans and programs (page 1-4, Section 1.7 of the EA)
- 3) The Proposed Action provides Midway with the opportunity to explore their existing mining claims on BLM land through exploration drilling and ancillary exploration-related activities within a 7,088-acre exploration area. Surface disturbance would occur on up to 125 acres. The need for the Action is established by the BLM's responsibility under the Mining Law of 1872, Section 302 of the Federal Land Policy and Management Act, and the BLM Surface Management Regulations at 43 CFR 3809.

## **Public Involvement**

Based on the size of the Proposed Action, the relatively routine nature of the proposal, and the lack of comments on similar activities for the first Gold Rock exploration project, no public scoping was conducted. Public comments on the Preliminary EA were accepted during a 15-day comment period from October 19 to November 3, 2012. No comments were received.

## **Appeals**

If you are adversely affected by this decision, you may request that the BLM Nevada State Director review this decision. If you request a State Director Review, the request must be received in the BLM Nevada State Office at 1340 Financial Boulevard, Reno, Nevada 89520-0006, no later than 30 calendar days after you receive or have been notified of this decision. The request for State Director Review must be filed in accordance with the provisions in 43 CFR 3809.805. This decision will remain in effect while the State Director Review is pending, unless a stay is granted by the State Director. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the BLM Nevada State Office to determine when the BLM received the request for State Director Review. You have 30 days from the end of the 21-day period in which to file your Notice of Appeal with this office at HC33 Box 33500, Ely, Nevada 89301-9408, which we will forward to IBLA.

If you wish to bypass a State Director Review, this decision may be appealed directly to the IBLA in accordance with the regulations at 43 CFR 3809.801(a) (1). Your Notice of Appeal must be filed in this office at HC33 Box 33500, Ely, Nevada 89301-9408 within 30 days from receipt of this decision. As the appellant you have the burden of showing that the decision appealed from is in error. Enclosed is BLM Form 1842-1 that contains information on taking appeals to the IBLA.

This decision will remain in effect while the IBLA reviews the case, unless a stay is granted by the IBLA. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

## **Request for a Stay**

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the IBLA and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.



## Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal must show sufficient justification based on the following standards:

1. The relative harm to parties if the stay is granted or denied;
2. The likelihood of the appellant's success on the merits;
3. The likelihood of immediate and irreparable harm if the stay is not granted; and
4. Whether the public interest favors granting the stay.

Approved by:

  
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Timothy R. Shannon  
Field Manager  
Egan Field Office

NOV. 15, 2012  
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Date

**ATTACHMENT 1:**  
**VISUAL RESOURCES MITIGATION MEASURES**

## Visual Resources Mitigation Measures

The planned reclamation and mitigation measures outlined below would reduce the visible contrast in the long term by masking areas with moderate contrast during exploration activities and returning the area to its original condition.

- Construction Drill Roads and Drill Sites: Any removed vegetation from road creation would be saved and used at access entrance. All drilling sites, including turnouts, would be visually masked by spreading the cut and downed brush and trees scattered across each site. This method would be most suitable to assist with blending disturbances into the surrounding characteristic landscape while vegetation is re-established from re-seeding, and to prevent continued use by the general public. Areas adjacent to and accessible by the main access roads should be a priority when using removed vegetation. Removed vegetation from sump sites would be saved, lopped, and scattered after access is ripped and re-seeded.
- Overland Travel: No ripping would be necessary. Any removed vegetation would be saved from sump sites and used at access entrance by lopping and scattering up to 50 feet, to avoid continued access on two-tracks.
- Reclamation: Once completed, trenches and pits would be backfilled and recontoured to near original contour. The top 1 foot of surface soil and plant material would be spread back over the area, and the area would be seeded with a BLM-approved seed mix.

**ATTACHMENT 2:  
NOXIOUS AND INVASIVE WEEDS MITIGATION  
MEASURES**

## Noxious and Invasive Weeds Mitigation Measures

- Prior to entering public lands, the contractor, operator, or permit holder will provide information and training regarding noxious weed management and identification to all personnel who will be affiliated with the implementation and maintenance phases of the project. The importance of preventing the spread of weeds to un-infested areas and the importance of controlling existing populations of weeds will be explained.
- Monitoring will be conducted for a period no shorter than the life of the permit or until bond release and monitoring reports will be provided to the Ely District Office. If the presence and/or spread of noxious weeds is noted, appropriate weed control procedures will be determined in consultation with Ely District Office personnel and will be in compliance with the appropriate BLM Handbook sections and applicable laws and regulations. All weed control efforts on BLM-administered lands will be in compliance with BLM Handbook H-9011, H-9011-1 Chemical Pest Control, H-9014 Use of Biological Control Agents of Pests on Public Lands, and H-9015 Integrated Pest Management. Submission of Pesticide Use Proposals and Pesticide Application Records will be required.
- To eliminate the transport of vehicle-borne weed seeds, roots, or rhizomes all vehicles and heavy equipment used for the completion, maintenance, inspection, or monitoring of ground disturbing activities or for authorized off-road driving will be free of soil and debris capable of transporting weed propagules. All such vehicles and equipment will be cleaned with power or high pressure equipment prior to entering the work site or project area. Cleaning efforts will concentrate on tracks, feet, and tires, and on the undercarriage. Special emphasis will be applied to axels, frames, cross members, motor mounts, on and underneath steps, running boards, and front bumper/brush guard assemblies. Vehicle cabs will be swept out and refuse will be disposed of in waste receptacles. Cleaning sites will be recorded using global positioning systems or other mutually acceptable equipment and provided to the District Weed Coordinator or designated contact person.
- To eliminate the introduction of noxious weed seeds, roots, or rhizomes all interim and final seed mixes, hay, straw, hay/straw, or other organic products used for reclamation or stabilization activities, feed, and bedding will be certified free of plant species listed on the Nevada noxious weed list or specifically identified by the Ely District Office.
- Removal and disturbance of vegetation would be kept to a minimum through construction site management (e.g. using previously disturbed areas and existing easements, limiting equipment/materials storage and staging area sites, etc.).
- Reclamation would normally be accomplished with native seeds only. These would be representative of the indigenous species present in the adjacent habitat. Rationale for potential seeding with selected non-native species would be documented. Possible exceptions would include use of non-native species for a temporary cover crop to out-compete weeds. Where large acreages are burned by fires and seeding is required for erosion



control, all native species could be cost prohibitive and/or unavailable. In all cases, seed mixes would be approved by the BLM Authorized Officer prior to planting.

- No noxious weeds will be allowed on areas disturbed by Midway at the time of reclamation release. Any noxious weeds that become established will be controlled.